IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 14619 of 2007(S)

PETITIONER:

P.D. JOSEPH,
EDITOR ZEEZER NEWS, TIRUR, TRICHUR DISTRICT.

BY ADV. SRI.P.D.JOSEPH (PARTY-IN-PERSON)

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,THIRUVANANTHAPURAM.

2. HOME SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

3. HEALTH SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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WRIT PETITION (C)No. 14619 OF 2007

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Dated this the 14th June, 2007

J U D G M EN T

H.L. Dattu, C.J.:

Petitioner is a public spirited citizen. He is also a tax payer. He is a human right activist. He is concerned about the civil rights of his fellow mates.

2. In this Writ Petition, filed under Article 226 of the Constitution of India, the petitioner is seeking the following reliefs . They are:

> *"1) A direction to the Secretary, Department of Health & Family Welfare, Trivandrum to report whether any oral or written instructions were issued to doctors at Government hospitals not to conduct any post mortem examination on the dead body of HIV affected persons.*
>
> *2) A direction to the Chief Secretary, Government of Kerala to enquire into Ext.P3 petition filed by the petitioner.*
>
> *3) A direction to the Secretary, Home Department to stop the investigation and raid in the Muringoor Retreat Centre.*

4) A direction to the Secretary, Department of Local Self Government of Kerala, Trivandrum to make necessary rules regarding the maintenance of an inward register at all public cemetery or crematorium in the State of Kerala.

3. The last prayer will not go with the prayer Nos.1, 2 and 3.

4. While entertaining this Writ Petition, we had directed the counsel appearing for the State Government to file their reply to the assertions and allegations made in the Writ Petition . Pursuant to our direction, the respondents have filed a detailed statement of objections.

5. In so far as the first prayer is concerned , the respondents have stated that at no point of time, the State Government have issued any instruction, either in writing or orally to the doctors working in the Government hospitals not to conduct post mortem on the body of HIV affected persons. The prayer in the Writ Petition is made only to find out whether any instruction has been issued in that regard. The respondents have stated that they have not issued such a direction to the doctors working in the Government hospitals in Kerala. Therefore, in our opinion, the first relief cannot be granted by us.

6. Then we go to the second prayer. The said prayer is for a direction to the Chief Secretary, Government of Kerala to consider Ext. P3 representation filed by the petitioner. Ext.P3 is as under:

"*In Kerala the officials not keeping the Register books in cemetery to find the dead body for every investigation.*

And the doctors are not Post Mortem the dead body of Aids Patients.

And kindly request to stop every day raid in Muringoor Divine Retreat Centre. "

7. The primary grievance of the petitioner, appears to us, is that the petitioner does not want an investigation to be conducted in the Muringoor Divine Retreat Centre. This prayer also cannot be granted by us for the simple reason that this Court while disposing of the Writ Petition filed by the Divine Retreat Centre in W.P.(C) 27125 of 2006 had specifically ordered for an investigation to be conducted by a team of experts, constituted by the Government on the basis of the direction issued by this court in Crl.M.C. 405 of 2006 dated 10.03.2006. Since the investigation is being done pursuant to the direction issued by this court, a direction to the respondents cannot be given by us to stop the investigation and raid in the Muringoor Divine Retreat Centre. The fourth prayer has nothing to do with the other prayers made in the Writ Petition.

8. If for any reason, the petitioner is of the opinion that an inward

register requires to be maintained at all public cemeteries, the petitioner has to file a better petition giving all details.

9. In that view of the matter, the prayers sought for, by the petitioner cannot be granted for the present. Accordingly, the Writ Petition requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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